

# ALSTON & BIRD

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December 15, 2017

*VIA ECF FILING*

Magistrate Judge Gary R. Brown  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
P.O. Box 9014  
Central Islip, NY 11722-9014

Re: *Santander Bank, N.A. v. Vanguard Funding LLC, et al.*  
Case No. 2:17-cv-04741-LDW-GRB

Dear Magistrate Judge Brown:

The law firm of Alston & Bird LLP represents Plaintiff Santander Bank, N.A. f/k/a Sovereign Bank, N.A. (“Santander”) in the above-referenced action. Santander files this letter to request clarification regarding whether the Court’s recent order stays the case only as to Santander’s claims against Defendant Brian F. Ofsie.

On December 5, 2017, counsel for Defendant Ofsie filed a letter enclosing a notice of bankruptcy filing by Mr. Ofsie under Chapter 7 of the United States Bankruptcy Code. [Docket Entry No. 21]. The letter stated that, “pursuant to 11 U.S.C. § 362 this action is stayed until further notice.” On December 12<sup>th</sup>, the clerk entered an ECF notification which stated “ORDER STAYING CASE for Bankruptcy Proceeding.” The docket entry had no further elaboration. On December 13<sup>th</sup>, I spoke with law clerk James Meehan regarding whether the Order stayed the entire case, or whether the stay pertained only to Defendant Ofsie. Mr. Meehan instructed that Santander should file a letter seeking clarification from Your Honor.

Under 11 U.S.C. § 362, an automatic stay suspends creditor collection efforts and litigation against a debtor that files for bankruptcy protection, but does not apply to actions directed toward non-debtor third parties. As a result, Santander’s position is that the automatic stay is effective only as to Mr. Ofsie, the party seeking bankruptcy protection, and not to his co-Defendant in this case, Vanguard Funding LLC. Undersigned counsel spoke with Mr. Ofsie’s counsel, Robert Drummond, who concurs in this position.

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Thank you for your attention to this matter.

Respectfully submitted,

ALSTON & BIRD LLP

/s/ Farah Lisa Sebti

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*Counsel for Plaintiff Santander Bank, N.A. f/k/a  
Sovereign Bank, N.A.*

cc: Vanguard Funding LLC (*via U.S. Mail*)  
Robert A. Drummond, Counsel for Defendant Brian Ofsie (*via ECF*)